

SULLIVAN & CROMWELL LLP

Justin J. DeCamp (admitted *pro hac vice*)
Ari B. Blaut (admitted *pro hac vice*)
Benjamin S. Beller (admitted *pro hac vice*)
125 Broad Street
New York, NY 10004
Telephone: (212) 558-1656
Facsimile: (212) 558-3588
Email: decampj@sullcrom.com
blauta@sullcrom.com
bellerb@sullcrom.com

Counsel to Deerfield Partners, L.P.

WOLLMUTH MAHER & DEUTSCH LLP

James N. Lawlor
500 Fifth Avenue
New York, NY 10110
Telephone: (212) 382-3300
Facsimile: (973) 741-2398
Email: jlawlor@wmd-law.com

Counsel to Deerfield Partners, L.P.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

In re:

INVITAE CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No. 24-11362 (MBK)

(Jointly Administered)

**DEERFIELD'S RESERVATION OF RIGHTS WITH RESPECT TO WITNESS
AND EXHIBIT LISTS FILED BY THE PARTIES TO THE JULY 22, 2024 HEARING**

Deerfield Partners, L.P. (together with its applicable affiliated funds and entities, “Deerfield”), as holder of a majority of the 2028 Senior Secured Notes, submits this reservation of rights with respect to the (a) Witness and Exhibit List filed by the Debtors [Dkt. 843], (b) the Witness and Exhibit List filed by the Official Committee of Unsecured Creditors (the “Committee”) [Dkt. 851], and (c) any other witness and exhibit list that may yet be filed (collectively, the “Witness and Exhibit Lists”).

¹ The last four digits of Debtor Invitae Corporation’s tax identification number are 1898. A complete list of the Debtors in these chapter 11 cases and each such Debtor’s tax identification number may be obtained on the website of the Debtors’ claims and noticing agent at www.kcellc.net/invitae. The Debtors’ service address in these chapter 11 cases is 1400 16th Street, San Francisco, California 94103.

BACKGROUND

1. On February 16, 2024, this Court entered the Order Establishing Certain Notice, Case Management and Administrative Procedures [Dkt. 62] (the “CMO”). Pursuant to the CMO, “[p]arties who intend to offer evidence at any hearing must file a witness and exhibit list at least forty-eight (48) hours before the scheduled hearing unless otherwise ordered by the Court or agreement by the parties.” CMO ¶ 3(h).

2. On July 19, 2024, in connection with the July 22, 2024 hearing (the “Hearing”), the Debtors and the Committee filed their respective Witness and Exhibit Lists. No other party has filed a witness and exhibit list.

RESERVATION OF RIGHTS

3. In accordance with the CMO, Deerfield reserves the right to call or introduce one or more of the witnesses identified in Witness and Exhibit Lists at the Hearing. Deerfield also reserves the right to call any witness or submit any declaration necessary to establish the authenticity or admissibility of documents should admissibility be raised at the hearing; call any witness identified by any other party (including the Debtor or Committee’s witnesses for any purpose, including for direct testimony); cross examine any witness called by another party; and call rebuttal witnesses as necessary. Deerfield also reserves the right to rely on witnesses testifying via previous testimony, as identified in Witness and Exhibit Lists.

4. Deerfield also reserves the right to use as its own exhibit, any exhibit identified or offered by any other party, including but not limited to exhibits identified in the Witness and Exhibit Lists at the Hearing. Deerfield’s reservation does not waive any objections that it may have to any exhibit listed on any party’s exhibit list. Deerfield further reserves the right to use any additional exhibit that has previously been admitted in prior proceedings before the Court and to supplement the exhibit list pending the Court’s ruling on any evidentiary motions.

Dated: July 19, 2024

/s/ James N. Lawlor

WOLLMUTH MAHER & DEUTSCH LLP

James N. Lawlor
500 Fifth Avenue
New York, NY 10110
Telephone: (212) 382-3300
Facsimile: (973) 741-2398
Email: jlawlor@wmd-law.com

SULLIVAN & CROMWELL LLP

Ari Blaut (admitted *pro hac vice*)
Justin DeCamp (admitted *pro hac vice*)
Benjamin Beller (admitted *pro hac vice*)
125 Broad Street
New York, NY 10004
Telephone: (212) 558-1656
Facsimile: (212) 558-3588
Email: blauta@sullcrom.com
decampj@sullcrom.com
bellerb@sullcrom.com

Counsel to Deerfield Partners, L.P.